

**CALIFORNIA CODE OF REGULATIONS, TITLE 19,
DIVISION 1, CHAPTER 14**

INITIAL STATEMENT OF REASONS

Pursuant to Government Code §51015.1, the State Fire Marshal, or an officer or employee authorized by the State Fire Marshal, shall adopt regulations and annually inspect all intrastate hazardous liquid pipelines and operators of intrastate hazardous liquid pipelines under the jurisdiction of the State Fire Marshal to ensure compliance with applicable laws and regulations associated with the implementation of this section.

SPECIFIC PURPOSE AND RATIONALE

1. Problem being addressed: The regulation is necessary to carry out the statutorily mandated annual inspections and the implementation of the new law. The May 19, 2015 pipeline incident at Refugio Beach in Santa Barbara County spilled over 100,000 gallons of crude oil and impacted over 25 miles of coastline and ocean water. The impacts from the spill were devastating, both environmentally and economically. As a result, Senate Bill 295, (Jackson, Chapter 607, Statute of 2015) mandates the Office of the State Fire Marshal (OSFM) to adopt regulations and conduct annual inspections of each intrastate hazardous liquid pipeline to reduce the potential pipeline accidents in California and protect the environment. The SFM currently regulates the safety of intrastate hazardous liquid pipeline through the certification from United States Department of Transportation (USDOT), Pipeline and Hazardous Materials Safety Administration (PHMSA). However, the current USDOT PHMSA certification requires the SFM to conduct six different types of inspections on each operator of hazardous liquid pipeline, and two different types of inspections on each intrastate hazardous liquid pipeline once every five years. The OSFM annual inspection is a two phase risk-based inspection approach intended to reduce the number of jurisdictional hazardous liquid pipeline accidents and reduce the consequence of jurisdictional hazardous liquid pipeline releases. The OSFM annual inspection will ensure compliance with federal and State regulations, enhance public safety, protect California's vital natural resources and wildlife, and reduce the risk of future jurisdictional hazardous liquid pipeline accidents.

2. Anticipated benefits from this regulatory action: This regulatory proposal would ensure compliance with federal and State regulations, enhance public safety, protect California's vital natural resources, and reduce the risk of future pipeline accidents.

3. Factual Basis/Rationale: The State Fire Marshal is required to promulgate and adopt the regulation for the annual inspection. The State Fire Marshal cannot adequately and effectively carry out its new statutory mandates without the regulation.

NECESSITY

The proposed amendments are necessary to fulfill the new statutory mandate. Governor Brown signed legislation, Senate Bill 295 (Jackson, Chapter 607, Statutes of 2015), that requires the State Fire Marshal to develop new regulations for annual inspections and to hire appropriate staff to carry out these inspections.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT OR SIMILAR DOCUMENT RELIED UPON

In connection with proposing the regulations, the Office of the State Fire Marshal (OSFM) researched the annual inspection process through the OSFM Pipeline Safety Regulations Work Group and used those consultations in developing these proposed regulations. In addition, the State Fire Marshal utilized input from the State Fire Marshal's Pipeline Safety Advisory Committee (PSAC), the Western States Petroleum Association (WSPA), non-government organizations (NGO) and the pipeline industry. The State Fire Marshal's PSAC consists of pipeline operators, the fire service, local agencies and the public. The Western States Petroleum Association (WSPA) is a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation and marketing in the five western states of Arizona, California, Nevada, Oregon, and Washington. These were conversations only, and there were no documents relied upon in connection with these consultations except for the meeting summary notes for the OSFM Pipeline Safety Regulations Work Group.

The Office of the State Fire Marshal proposes to add the following documents relied upon to the rulemaking file:

- Senate Bill 295, October 8, 2015, Jackson, Chapter 607.
- OSFM Pipeline Safety Regulations Work Group-Meeting Summary Notes (dated June 2016).

INCORPORATION BY REFERENCE

Any documents or standards incorporated by reference in this action are formal publications reasonably available from the OSFM at any time upon request and during the rulemaking action and are also available on the SFM website. Neither the standards nor documents incorporated by reference in this action will be printed in the California Code of Regulations because to do so would be cumbersome, unduly expensive, or otherwise impractical.

CONSIDERATION OF ALTERNATIVES TO THE REGULATION AND THE STATE FIRE MARSHAL'S REASONS FOR REJECTING THOSE ALTERNATIVES

The OSFM staff has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts that will be placed upon the industry.

The OSFM has determined that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed nor would they be as effective. They also would not be less burdensome to the affected private persons or businesses than the proposed action, nor would they be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. The alternative of no regulatory action would not be the best interest of the public.

REASONABLE ALTERNATIVES – SMALL BUSINESS EFFECTS

The proposed regulations have no substantial effect to small business. The SFM has made the initial determination that these proposed regulations will have no "substantial"

effect to small businesses and the SFM has identified no alternative that would lessen adverse impact, if any, on small business and still allow the State Fire Marshal to effectively enforce the regulations. Government Code Section 11342.610 (b)(9) excludes a petroleum producer, a natural gas producer, a refiner, or a pipeline from the definition of “small business”.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The OSFM can find no facts, documents, testimony, or evidence that this action will have a significant adverse economic impact on any business. The pipeline industry members of the OSFM Pipeline Safety Regulations Workgroup were consulted and surveyed on how these regulations impact their business and as a result found no significant adverse economic impact.

ECONOMIC IMPACT ANALYSIS AND ASSESSMENT

The proposed regulations will have a positive impact on the ability of the OSFM to carry out its inspection and enforcement authority. It would ensure consistency throughout the State in terms of compliance with federal and State regulations, enhance public safety, protect California’s vital natural resources and wildlife, and reduce the risk of future pipeline accidents.

The Creation or Elimination of Jobs within the State of California

The OSFM has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs. During the crafting of the regulations, stakeholder organizations were consulted. The consensus of the stakeholder representatives was that by adding these changes in regulations there will be no impact on industry in that the proposed amendments do not fundamentally change the way they are doing business.

The Creation of New Businesses or the Elimination of Existing Businesses within the State of California

The OSFM has determined that this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses. The regulations serve to improve the pipeline inspections which have no negative effect on the business environment.

The Expansion of Businesses Currently Doing Business within the State of California

The OSFM has determined that this regulatory proposal will not have a significant impact and will not limit or discourage the expansion of existing businesses within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

This regulatory proposal provides a direct benefit to the protection of the environment, public health and safety of Californians. The regulations also would ensure consistency throughout the State in term of pipeline inspections intervals to protect California’s vital natural resources and wildlife, and reduce the risk of future pipeline

accidents.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

COORDINATION WITH FEDERAL LAW

The OSFM has determined that this proposed regulatory action neither conflicts with nor duplicates any federal regulation contained in the Code of Federal Regulations.

SPECIFIC SECTIONS WHICH HAVE BEEN ADOPTED:

Chapter 14 Hazardous Liquid Pipeline Safety

Article 2. Annual Inspections of Intrastate Hazardous Liquid Pipelines and Operators of Intrastate Hazardous Liquid Pipelines

Section 2000 is being proposed to add to the “Note” the reference section of the law which was inadvertently left out.

Necessity: This section adds and cites the authority pursuant to the law in the Government Code.

Section 2020 is being proposed to add the new State requirement for annual inspections.

Necessity: The May 19, 2015 pipeline incident at Refugio Beach in Santa Barbara County spilled over 100,000 gallons of crude oil and impacted over 25 miles of coastline and ocean water. The impacts from the spill were devastating, both environmentally and economically. As a result, Senate Bill (SB) 295 was chaptered into law last year which mandates the OSFM to adopt regulations and conduct annual inspections to reduce the potential pipeline accidents in California and protect the environment. The proposed regulation is necessary to carry out the State requirement to conduct annual inspections of each intrastate hazardous liquids pipeline operator and pipeline to ensure compliance with the new law. The OSFM annual inspection is a two phase risk-based inspection approach intended to reduce the number of pipeline accidents and reduce the consequence of pipeline releases.

Section 2021 is being proposed to add the new State requirement for pipeline operators to submit an annual form to the OSFM.

Necessity: The proposed regulation is to ensure that operators provide the OSFM with the documentation to validate the information provided on their annual form. The Form PSD-101 contains critical information about the pipeline for the OSFM to evaluate and assign inspection modules. The instructions for Form PSD-101 provide an explanation and details on filling out the critical information.

Section 2030 is being proposed to add the enforcement authority for Sections 2020 and 2021.

Necessity: The proposed regulation is to ensure that non-compliant operators will be subjected to enforcement action as authorized by state law.